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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,253	02/24/2004	Stephan Durach	080437.53137US	1266
23911	7590	06/30/2006	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			CIRIC, LJILJANA V	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**


Application No.

10/784,253

Applicant(s)

DURACH ET AL.

Examiner

Ljiljana (Lil) V. Ciric 

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) none is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040224.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. The reference listed at the top of page 2 of the specification has not been considered.

### ***Specification***

3. The abstract of the disclosure is objected to because it is written in run-on fashion. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

4. Claims 1 through 12 are objected to because of the following informalities, for example: "detecting automatically seat occupancy" [claim 1, line 4] should be replaced with –automatically detecting seat occupancy". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1 through 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is insufficient antecedent basis for the limitations “the data received from the interior sensing system” [claim 1, line 5]. “said seat” [claim 2, line 4], and, “the area of an unoccupied one of the plurality of seats” [claim 3, line 3; claim 4, line 3; claim 5, lines 3-4; claim 6, lines 3-4].

The limitations following “are operated” in line 2 of each of claims 5 and 6 contain idiomatic and/or grammatical informalities and are generally rendered incomprehensible thereby.

Also, it is not clear which parts of the vehicle are encompassed and which ones are excluded by the limitation “the area of an unoccupied one of the plurality of seats” as compared to the parts encompassed and excluded by the limitation “occupied portions of the vehicle”. What, in particular, constitutes “the area” of an unoccupied seat? Also, what encompasses an “occupied portion of the vehicle”? An occupied seat of the vehicle? An occupied seat of the vehicle and additional space surrounding the occupied seat? Last but not least, what is meant by the limitation “adjusted *to approach temperature settings* for occupied portions of the vehicle” as a whole? What, per se, constitutes *approaching* a temperature *setting*? The metes and bounds of the claims are rendered indefinite by these limitations.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. As best can be understood in view of the indefiniteness of the claims, claims 1 through 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fusco et al.

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Fusco et al. discloses a method of controlling a vehicle interior heating and air conditioning system equipped with actuators (i.e., outlets 36 and 38), comprising: detecting interior conditions using an interior sensing system including temperature sensors 52, 54, 56, and 58 as well as sun load sensors 62, 64, 66, and 68, for example; automatically detecting seat occupancy using seat occupancy detectors 28, 30, 32, and 34 which comprise an object recognition system at least as broadly interpreted as required; and, adjusting automatically the heating and air conditioning actuators as a function of seat occupancy to maintain desired interior conditions at at least one of the plurality of seats within the vehicle interior, including adjusting the temperature of unoccupied areas [see column 4, lines 66-67; column 5, lines 1-15]. The reference thus reads on the claims.

***Allowable Subject Matter***

9. Claims 7 through 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner can normally be reached on flexible.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ljiljana (Lil) V. Ciric  
Primary Examiner  
Art Unit 3753